

REMARKS

This Amendment is in response to the Office Action dated February 20, 2008, and accompanies a Request For Continuing Examination. With this Amendment, independent claims 1, 8, 17, 24, 31, and 38 are amended. Claims 1-3, 5-10, 12-19, 21-26, 28-33, 35-40, and 42-44 are presented for reconsideration and allowance.

In the Office Action dated February 20, 2008, claims 1-3, 5, 8-10, 12, 17-19, 21, 24-26, 28, 31-33, 35, 38-40, and 42 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,853,422 by Huebsch. Claim 6, 7, 13, 14, 22, 23, 29, 30, 36, 37, 43, and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Huebsch in view of U.S. Patent No. 5,733,294 by Forber. Claims 15 and 16 were rejected under 35 U.S.C. § 103 as being unpatentable over Huebsch in view of U.S. Patent No. 5,108,420 by Marks.

With this Amendment, each of the independent claims have been amended to clarify that the occlusion device has a left end and a right end, and that the left end is insertable through the septal defect or other anomaly that is to be closed by the occlusion device. The claims have also been amended to clarify the relative positions of the elements with respect to the left and right ends. Thus, the use of "first and second" and "proximal and distal" as previously used in the independent claims has been replaced with consistent terminology in terms of "right and left".

In the present application, occlusion device 10 includes a fixed center post 12, a floating center post 14, a right fixation device 16, right sheet 24, left fixation device 34, and left sheet 26. Puller arms 20 extend between right fixation device 16 and floating center post 14.

Fixed center post 12 is connected to both the left and right fixation devices, while floating center post 14 is connected only to the puller arms. Fixed center post 12 extends to the left end of the occlusion device. Floating center post 14 is located at the right end of the occlusion device, and is to the right of the fixed center post, both the left and right fixation devices, both of the left and right sheets, and the puller arms.

In different views, the left end may appear either on the right hand side or the left hand side of the drawing. For example, in FIG. 1, the left end of occlusion device 10 is located to

the right in the figure and the right end is located to the left. In FIG. 2, on the other hand, the left end is to the left and the right end is to the right. In FIGS. 3a-3d, the right end of occlusion device 10 once again appears on the left hand side of each of the figures, so that the details of the right hand portion of occlusion device 10 can be seen.

The Huebsch patent also is concerned with closing septal defects. It defines the two ends of the device in terms of "proximal" and "distal". Huebsch refers to distal end 16 and proximal end 14. Using Applicant's terminology, distal end 16 of Huebsch, which is the end that passes through the defect, is the "left end" and proximal end 14, which does not pass through the defect but rather remains on the opposite side of the defect from distal end 16 is the "right end".

By specifically defining the ends of the occlusion device and defining which of the two ends passes through the defect, the amended independent claims define a structure that is not met by Huebsch. In particular, the diagram taken from Huebsch which appears on page 5 in the Office Action is no longer applicable. The portion of the Huebsch device that is shown on the right hand side on page 5 is the portion that passes through the defect (i.e., distal end 16). That is the portion that is defined by the claims as being the "left end". As a result, the portions alleged in the Office Action to be the "fixed center" and "floating center" are at the wrong positions, because the alleged "floating center" is at the left end of the device and the alleged "fixed center" is closer to the right end of the device. In addition, what has been alleged is the puller arms are in the wrong position to satisfy any of the independent claims as amended.

Because Huebsch does not meet the limitations of independent claims 1, 8, 17, 24, 31, and 38, the rejection under 35 U.S.C. § 102(b) must be withdrawn. In addition, the rejections under 35 U.S.C. § 103(a), which are based on Huebsch as the primary reference, also are no longer applicable, and should be withdrawn.

In summary, the present Amendment has more specifically defined the locations of each and every element of the occlusion device of the present invention. Applicant's occlusion device is structurally different from Huebsch, and the claims have now been amended to reflect the

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structural and functional differences. Reconsideration and allowance of all the pending claims 1-3, 5-10, 12-19, 21-26, 28-33, 35-40, and 42-44 is requested.

Respectfully submitted,

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Date: 7/18/08

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